

**MUNICIPAL CLERK
ATLANTA, GEORGIA**

A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE **03- R-0782**

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS OF CAPRICORN CONSTRUCTION COMPANY, INC., AGAINST THE CITY OF ATLANTA, IN THE CASE OF CAPRICORN CONSTRUCTION COMPANY, INC., V. THE CITY OF ATLANTA, CIVIL ACTION NUMBER: 2002-CV-52481, FILED IN THE SUPERIOR COURT OF FULTON COUNTY; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00); AND FOR OTHER PURPOSES.

WHEREAS, on April 29, 2002, Plaintiff Capricorn Construction Company initiated the case of Capricorn Construction Company v. City of Atlanta, in the Superior Court of Fulton County, claiming that it should have been awarded the Bitsy Grant Tennis Center Park Erosion Center contract instead of another company; and

WHEREAS, on or about November 28, 2001, Capricorn Construction company submitted a bid to the City of Atlanta for the FC-6958-98, Bitsy Grant Tennis Center Park Erosion Center contract; and

WHEREAS, Capricorn Construction was the second lowest bidder; and

WHEREAS, the company who was awarded the contract was the lowest bidder; and

WHEREAS, under the *City of Atlanta Code of Ordinances*, Section 2-1449(a), a potential bidder must demonstrate that the process for contracting or utilizing individuals or businesses as subcontractors or suppliers for work on projects undertaken by the potential bidder is open to individuals or businesses regardless of race, gender, or ethnicity, by fulfilling one of the three following requirements: (A) documentation of prior MBE or FBE participation, (B) documentation of prior outreach efforts, or (C) commitment to future good faith efforts; and

WHEREAS, the company who was awarded the contract did not choose a category under Section 2-1449(a), when it submitted its bid to the city; and

WHEREAS, on April 29, 2002, Plaintiff filed a Petition for Temporary and Permanent Injunctive Relief; and

WHEREAS, the Court denied the petition, but ordered the parties to mediate on the issue of bid prep costs; and

WHEREAS, the appropriate relief for Capricorn Construction Company would be its reasonable costs of bid preparation; and

WHEREAS, Plaintiff's bid was \$1,118,000.00 and its bid prep costs were \$10,000.00; and

WHEREAS, Plaintiff, through its attorney, has agreed to settle all claims of Plaintiff against the City of Atlanta for the sum TEN THOUSAND DOLLARS (\$10,000.00); and

WHEREAS, the City Attorney considers it to be the best interest of the City to resolve this matter and recommends that the above settlement be entered into; and

WHEREAS, by this settlement, Defendant City of Atlanta admits no liability; and

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES that the City Attorney be and is hereby authorized to conclude the settlement of all claims against the City of Atlanta, as set forth in Civil Action No.: 2002-CV-52481, Superior Court of Fulton County, for the aggregate amount of TEN THOUSAND DOLLARS (\$10,000.00).

THE CITY COUNCIL FURTHER RESOLVES that the Chief Financial Officer is authorized to pay the total of TEN THOUSAND DOLLARS (\$10,00.00) at the direction of the City Attorney from the account of 1A01529017T31001. Payment shall be in the form of a check in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable to Plaintiff Capricorn Construction Company and its attorney Victor Alan McLemore.